

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JAMES EARL HOPKINS §
v. § CIVIL ACTION NO. 6:06cv236
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner James Hopkins, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction and sentence. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Hopkins says that he was convicted of assault on a public servant on November 14, 2000, receiving a sentence of 10 years in prison. He did not take a direct appeal, but filed an application for the writ of habeas corpus in state court on September 30, 2003, which was denied by the Texas Court of Criminal Appeals on November 19, 2003. He signed his federal habeas corpus petition on May 11, 2006.

After review of the petition, the Magistrate Judge issued a Report on August 14, 2006, recommending that the petition be dismissed with prejudice because of the expiration of the statute of limitations. Hopkins received a copy of this Report on August 23, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review

of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court.

Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and records in this cause, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 18th day of September, 2006.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE